

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MCKINLEY PIERCE ATKINS,
Plaintiff,
v.
E. ROCHA, et al.,
Defendants.

Case No. 1:20-cv-00193-NONE-JLT (PC)

FINDINGS AND RECOMMENDATIONS TO DISMISS CLAIMS AND DEFENDANT

14-DAY DEADLINE

On June 10, 2021, the Court screened Plaintiff's first amended complaint and found that it states cognizable claims of deliberate indifference to serious medical needs against Defendants Rios and De Lussa, but that its remaining claims are not cognizable. (Doc. 24.) The Court therefore directed Plaintiff to file a second amended complaint curing the deficiencies in his pleading or to notify the Court that he wishes to proceed only on the claims found cognizable. (*Id.* at 8.)

On July 1, 2021, Plaintiff filed a notice that he “wish[es] to proceed only on the deliberate indifference claims against Rios & De Lussa, dismiss the remaining claims, and dismiss Defendant Rocha.” (Doc. 25.) Accordingly, and for the reasons set forth in the Court’s screening order (Doc. 24), the Court RECOMMENDS that:

1. Defendant Rocha be DISMISSED; and,
2. The claims in Plaintiff's first amended complaint be DISMISSED, except for its

1 claims of deliberate indifference to serious medical needs against Defendants Rios and
2 De Lussa, pursuant to 42 U.S.C. § 1983.

3 These Findings and Recommendations will be submitted to the United States District
4 Judge assigned to this case, pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of
5 service of these Findings and Recommendations, Plaintiff may file written objections with the
6 Court. The document should be captioned, “Objections to Magistrate Judge’s Findings and
7 Recommendations.” Failure to file objections within the specified time may result in waiver of
8 rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v.*
9 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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11 IT IS SO ORDERED.

12 Dated: July 5, 2021

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/s/ Jennifer L. Thurston
14 CHIEF UNITED STATES MAGISTRATE JUDGE
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